

Item-10. 13-10-2023

FMA 4798 of 2015
CAN 1 of 2015 (old CAN 10615 of 2015)
(not supplied)

^{sg} Ct. 8

The Secretary, Kusumba High School (SE) & Anr.
Versus
Soumyabrata Maity & Ors.

1. The parties are not represented nor any accommodation is prayed for on behalf of the parties.
2. The appeal had appeared in the warning list of cases on and from 19th September, 2023 with a clear indication that the said matter shall be transferred to the Regular Bench on 6th October, 2023. The appeal is again listed today in the main cause list. All the parties have sufficient notice about the listing of the matter before the Regular Bench on and from 6th October, 2023.
3. The appeal was filed on 29-09-2015. The record shows that no attempt has been made to move this appeal after it was filed. No step has been taken to serve notice and prepare paper books. It clearly shows that the appellants are not interested to proceed with the appeal and have virtually abandoned the appeal.
4. However, we have considered the materials on record and the impugned order. The writ petitioner is an approved Assistant Teacher of Ramnagar High School (H.S.), P.S. Baruipur, District South 24 Parganas. He joined service on June 22, 1993.
5. After completion of ten years' service, he came across an advertisement dated 25th July, 2003 issued by the West Bengal Central School Service Commission (hereinafter the

‘WBCSSC’) inviting applications for appointment on the post of headmaster. The petitioner duly applied and upon being successful, he was recommended for appointment as Headmaster of the Kusumba High School (hereafter ‘KHS’) vide Memo dated 20th November, 2013. The appointment letter was issued in his favour on 10th April, 2004. He was asked to join the post within three months from the date of its receipt. However, due to a writ application filed by some of the guardians of students studying in KHS, the said appointment could not be given effect to immediately and ultimately, on 20th June, 2008, the Rule issued was discharged. Immediately thereafter, the writ petitioner made a representation for permission to join as Headmaster. In the meantime, an application for recall of the order dated 20th June, 2008 was filed on 26th August, 2008. But till the petition was being heard out, the said application for recall was not heard.

6. In view of the aforesaid facts, the Secretary, KHS, by his letter dated 11th February, 2014 sought for advice from the District Inspector of School (S.E.), South 24 Parganas as well as the Secretary of the West Bengal Regional School Service Commission (Southern Region) as to what steps are required to be taken in view of the pendency of the application for recall.
7. It was in its factual matrix, the petitioner approached the Court. The objection that he has applied belatedly was rightly turned down as the petitioner was in no way responsible for the delay and the authorities concerned were

delaying the matter in taking final decision. On such consideration, the learned Single Judge allowed the writ petition.

8. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge. The appeal fails and the same is, accordingly, dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)